

REMARKS

Applicants have now submitted a Sequence Listing and a corresponding computer-readable Sequence Listing. The sequence information recorded in the corresponding computer-readable Sequence Listing is identical to the paper copy of the Sequence Listing. Support for all the sequences listed in the Sequence Listing is found in the present application as originally filed. No new matter is believed to have been introduced by the submission of the Sequence Listing and the corresponding computer-readable Sequence Listing.

The Office has restricted this application under 35 U.S.C. §121 to the following groups:

Group I: Claims 1-48, drawn to a protein, oligomer and a vaccinating composition;

Group II: Claims 49-52 and 64-66, drawn to an antibody and hybridoma;

Group III: Claims 53-57, 59-62 and 67, drawn to a DNA vector and vaccine compositions;

Group IV: Claim 58, drawn to an organism;

Group V: Claim 63, drawn to a baculovirus.

Applicants elect with traverse, Group I, Claims 1-48, for initial examination purposes only.

Restriction is only proper if the inventions are independent or patentably distinct and there is a serious burden on the Examiner in the absence of restriction (MPEP §803). The burden is on the Office to provide reasons and/or examples to support any conclusions of the patentable distinctness between the restricted inventions or a serious burden on the Examiner (MPEP §803). Applicants respectfully traverse the Restriction Requirement on the grounds that the Office has not provided adequate reasons and/or examples to support its conclusion

of patentable distinctness or demonstrated that the Examiner will be seriously burdened by searching all the claims without restriction.

The Office contends:

The products of Group I are composed of amino acids and function to promote immunity by stimulating antibody production. Group II is composed of L and H genes composed of polypeptide subunits (made by the hybridoma) and is capable of effecting immune responses. Group III is composed of nucleic acids and is capable of hybridization. Group IV is an organism having organ systems and capable of reproduction. Group V is a baculovirus capable of replication in a host cell. (Page 2 of the Official Action)

The Office has merely stated that the claims of each group are "distinct each from the other because of different structure and function" (page 2 of the Official Action). The Office has not met its burden of demonstrating that each of the Groups is patentably distinct from the others. The statement that the inventions require a separate status in the art as shown by the different classifications is merely a restatement of conclusion of patentable distinctness. Moreover, examination of all the claims would not seriously burden the Examiner. The claims are so interrelated as to compel examination in a single application.

In particular, the claims of Group I are drawn to proteins or vaccine compositions of a Plasmodium type parasite other than Plasmodium vivax and the claims of Group II are drawn to antibodies which bind the proteins of Group I. Thus, had Applicants elected the claims of Group II, the Examiner would have had to include in the examination the art pertaining to the claims of Group I. Thus, Applicants submit that the Examiner should at least examine the claims of both Group I and II together. Likewise, the claims of Groups III - IV are drawn to vectors and vaccine compositions encoding and/or comprising the proteins of Group I. The Manual of Patent Examining Procedure at section 803 indicates the following:

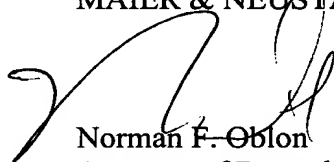
If the search and the examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Thus, Applicants submit that it would not pose an undue burden on the Examiner to examine all the pending claims in the present application. Accordingly, the restriction is believed to be improper and it is respectfully requested that it be withdrawn, or at least modified such that at least the claims of Groups I and II are examined in a single application.

Applicants submit that the application is now in condition for examination on the merits. Early notification of such is earnestly solicited.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Norman F. Oblon', is written over the printed name.

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